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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,142	02/09/2004	Takao Nakajima	26GT-004-DIV2	5428

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER

STRIMBU, GREGORY J

ART UNIT PAPER NUMBER

3634

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/773,142

Applicant(s)

NAKAJIMA ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006 and 02 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/043,166.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Drawings

The drawing correction filed May 9, 2006 has been approved.

Double Patenting

Claims 34-44 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,716,496 in view of the admitted prior art in figures 23-25. Claims 1-4 of U.S. Patent No. 6,716,496 disclose the claimed invention but for a cutoff part and the attachment portion being curved along the corner section.

However, the admitted prior art of figures 23-25 discloses a weather strip 51 comprising an extruded body having straight sections (S) and a corner section (C) curving therebetween, said extruded body comprising an attachment portion 53 and a hollow sealing portion 54, the attachment portion being configured for attachment to a flange 2; wherein the corner section of the extruded body comprises a cut off part (not numbered, but shown in figure 24) being made on said hollow sealing portion along the corner section, said attachment portion being curved along the corner section, and a corner-shaped molded part 57 being formed by filling a molding material into the cut off sealing portion; wherein said weather strip further comprises a reinforcing portion (not numbered, but comprising the portion of the molded part 57 which is disposed within the sealing portion 54) for maintaining curved shape which prevents transformation of said corner-shaped molded part due to the recovery of the straight shape of the corner section.

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It would have been obvious to one of ordinary skill in the art to provide claims 1-4 of U.S. Patent No. 6,716,496 with a cutoff part and a curved attachment portion, as taught by the admitted prior art of figures 23-25, to more easily manufacture the weather strip.

Claim Rejections - 35 USC § 112

Claims 35-37 and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "curved shape" on line 2 of claim 35 render the claims indefinite because it is unclear if the applicant is referring to the curvature of the corner section set forth above or is attempting to set forth another curve in addition to the one set forth above. Recitations such as "the back side" on line 2 of claim 37 and "the molded portion" on line 1 of claim 44 render the claims indefinite because they lack antecedent basis. Recitations such as "soft" and "hard" on line 2 of claim 44 render the claims indefinite because they are relative terms whose meaning cannot be readily ascertained by one with ordinary skill in the art and are not defined by the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 34, 35, 37, 39, 40, 42 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by the admitted prior art of figures 23-25. The admitted prior art of figures 23-25 discloses a weather strip 51 comprising an extruded body having straight sections (S) and a corner section (C) curving therebetween, said extruded body comprising an attachment portion 53 and a hollow sealing portion 54, the attachment portion being configured for attachment to a flange 2; wherein the corner section of the extruded body comprises an opening (not numbered, but shown in figure 24) defined in a wall of said hollow sealing portion along the corner section, wherein the opening is formed by removal of a part 54 of the wall of said hollow sealing portion, said attachment portion 53 being curved along the corner section, and a corner-shaped molded part 57 being formed by filling a molding material into the opening; wherein said weather strip further comprises a reinforcing portion (not numbered, but comprising the portion of the molded part 57 which is disposed within the sealing portion 54) for maintaining curvature of the corner section, wherein the reinforcing portion prevents the corner section from recovering its original straightness, a U-shaped metal insert 56.

Should the applicant disagree with the examiner's interpretation of the teachings of the admitted prior art of figures 23-25, claims 34, 35 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Mesnel (US 3837957). Mesnel discloses a weather strip comprising a body having straight sections (not numbered, but shown in figure 1) and a corner section (not numbered, but shown in figure 1) curving therebetween, the body comprising an attachment portion 1 and a hollow sealing

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portion 2, the attachment portion being configured for attachment to a flange, wherein the attachment portion being curved along the corner section, and a reinforcing portion 6 for maintaining a curvature of the corner section, wherein the reinforcing portion prevents the corner section from recovering its original straightness, the reinforcing portion is on a surface of the attachment portion 1, the reinforcing portion is on the back side of the corner shaped part and is a curved reinforcing rib.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of figures 23-25 as applied to claims 34, 35, 37, 39, 40, 42 and 43 above, and further in view of Gommier et al. (US 4708898). Gommier et al. discloses a reinforcing portion 20 for maintaining curved shape comprising a resin (see column 3, line 20).

It would have been obvious to one of ordinary skill in the art to provide the reinforcing portion of the admitted prior art in figures 23-25 with a resin, construction, as taught by Gommier et al., to increase the strength of the reinforcement portion.

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Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of figures 23-25 as applied to claims 34, 35, 37, 39, 40, 42 and 43 above, and further in view of Nozaki (US 5035937). Nozaki '937 discloses a weather strip comprising an insert 61 having two ribs (not numbered, but shown in figure 5B as the vertical portions of the cut 51 extending above and below the opening).

It would have been obvious to one of ordinary skill in the art to allow the molding part of the admitted prior art of figures 23-25 to extend beyond the opening in the hollow sealing portion, as taught by Nozaki '937, to increase the strength of the corner section.

Claims 39, 40, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mesnel (US 3837957) in view of the admitted prior art in figures 23-25. Mesnel discloses a weatherstrip comprising a body which includes two straight sections (not numbered, but shown in figure 1) and a corner section (not numbered, but shown in figure 1), the corner section curves and extends between the straight sections, the body includes an attachment portion 1 and a hollow sealing portion 2, the attachment portion is configured for attachment to a flange, the attachment portion is curved along the corner section, the corner includes a corner-shaped part, and a reinforcing portion 6 for maintaining the curvature of the corner-shaped part, wherein the reinforcing portion prevents the corner section from recovering its original straightness, the corner portion is made of a TPE material (see column 2, lines 33-35). Mesnel is silent concerning a U-shaped metal insert.

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However, the admitted prior art of figures 23-25 disclose an attachment portion 53 having a U-shaped metal insert 56.

It would have been obvious to one of ordinary skill in the art to provide Mesnel with a metal insert, as taught by the admitted prior art of figures 23-25, to increase the strength of the attachment portion.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mesnel (US 3837957) in view of the admitted prior art in figures 23-25 as applied to claims 39, 40, 42 and 43 above, and further in view of Hazelton et al. (US Re. 35,398). Hazelton et al. discloses the use of polyolefin resins in weatherstrips (see column 2, lines 57-65).

It would have been obvious to one of ordinary skill in the art to provide Mesnel, as modified above, with a polyolefin based resin, as taught by Hazelton, to increase the resiliency of the corner portion (see column 2, lines 21-23).

Response to Arguments

Applicant's arguments filed May 9, 2006 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Figures 24 and 25 failing to disclose a reinforcing portion for preventing the corner shaped molded part from recovering its original straightness, the examiner respectfully disagrees. The portion of the molded part 57 as shown in figure 25 comprises two portions, the portion filling the

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opening left by the cut out 54 and the portion extending beyond the sealing portion 54.

The portion filling the opening left by the cut out comprises the reinforcing portion.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a stylized flourish extending from the end.

Gregory J. Strimbu
Primary Examiner
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January 22, 2007